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Special Political and Decolonization Committee (Fourth Committee)

Summary record of the first* part of the 11th meeting
Held at Headquarters, New York, on Friday, 17 October 2008, at 3 p.m.

Chairman: Mr. Argüello ..... (Argentina)

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* The summary record of the second part of the meeting, held on Monday, 20 October 2008, appears as document A/C.4/63/SR.11/Add.1.

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The meeting was called to order at 3.10 p.m.

Agenda item 37: Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples (*Territories not covered under other agenda items*) (*continued*)

Draft resolution VI on the questions of American Samoa, Anguilla, Bermuda, the British Virgin Islands, the Cayman Islands, Guam, Montserrat, Pitcairn, Saint Helena, the Turks and Caicos Islands and the United States Virgin Islands (A/62/23, chap. XII; A/C.4/63/L.6)

1. **The Chairman** invited the Committee to take action on the draft resolution.

2. **Sir John Sawers** (United Kingdom), comparing draft resolution VI with the text on the same subject adopted the previous year, said that, part A, paragraph 2, contained new language which qualified the principle of self-determination on issues of decolonization in a way that caused grave concerns. He therefore proposed that the words "and where there is no dispute over sovereignty" should be deleted. Self-determination was a fundamental principle enshrined in the Charter of the United Nations and in international law. Its codification as a principle of international affairs dated from the early twentieth century. Although the Charter did not elaborate on the principle, or how it should be enacted, that had been done through various other international instruments, including General Assembly resolutions 1514 (XV), 1541 (XV), and 2625 (XXV). The principle was also reflected in international practice and jurisprudence. None of the legal instruments, resolutions or judgments in question indicated that the right of self-determination was not applicable in instances where there was a dispute over sovereignty. In some cases, they had even given primacy to the right of self-determination over other international legal principles. At the very least, therefore, the Committee should be asking why an attempt was being made to restrict and qualify that right, and why it was being made in the resolution under discussion. The language was not even relevant to the resolution, since there were no sovereignty disputes in any of the Territories in question. It seemed that an attempt was being made to surreptitiously introduce that language, with a view to gradually broadening the restriction to other disputes.

3. The Committee was aware that there were sovereignty issues at stake with regard to Gibraltar and the Falkland Islands. His Government's position on those two Territories was clear, and practical matters were being addressed bilaterally with Spain and Argentina. A move now by the Committee to introduce a restriction to the principle of self-determination could have wider ramifications, including for the people of Western Sahara, or for the Palestinian people's right to self-determination, should Israel claim sovereignty in the West Bank and Gaza. Any move to qualify the principle of self-determination would bring uncertainty elsewhere.

4. The letter from the Chairman of the Special Committee on decolonization clarified that body's procedures, but did not address the substantive issues at stake. It was entirely appropriate for the Fourth Committee to raise concerns about a draft resolution proposed by one of its subsidiary bodies. The Committee took its own decisions, but remained open to discussing its consensus with the Special Committee.

5. **Mr. Natalegawa** (Indonesia), speaking in his capacity as Chairman of the Special Committee on decolonization, said that the draft resolution had been discussed intensively in informal consultations and endorsed by consensus. Throughout the process, the Special Committee had maintained an open approach and had frequently called on the administering Powers to participate in the consultation process on the different draft resolutions before it. Unfortunately, such participation had not met expectations in the case of some administering Powers.

6. The report of the Special Committee had been available since 30 June 2008; any concerns could have been brought to the Special Committee's attention at any time. None had been received.

7. In the course of adopting its report, the Special Committee had strictly followed existing procedure. The content of the paragraph in question had been carefully discussed during that process, and was consistent with many resolutions previously adopted by the General Assembly and the Special Committee, as well as with the final documents of various regional seminars on decolonization. Accordingly, he expressed the hope that the draft resolution would obtain the consensus support of the Fourth Committee.

8. **Ms. de Montlaur** (France) said that her delegation supported the amendment proposed by the United Kingdom, and would like the Committee to

return to a text which would allow for adoption by consensus.

9. **Mr. Tarragô** (Brazil), speaking on behalf of the member States of the Southern Common Market (MERCOSUR), the candidate country the Bolivarian Republic of Venezuela and the associated countries Bolivia, Chile, Colombia, Ecuador and Peru, said that the draft resolution reaffirmed that in the process of decolonization and where there was no dispute over sovereignty, there was no alternative to the principle of self-determination. The proposed amendment contained in document A/C.4/63/L.6 recognized the existence of special and particular colonial situations which involved sovereignty disputes expressly recognized by the General Assembly and the Special Committee on decolonization, disputes which States were urged to resolve peacefully through negotiation. The general principle of self-determination of peoples did not apply in special and particular situations involving sovereignty disputes. Indeed, General Assembly resolution 1514 (XV) specified that "any attempt aimed at the partial or total disruption of the national unity and the territorial integrity of a country is incompatible with the purposes and principles of the Charter of the United Nations".

10. For those reasons, the States Parties of MERCOSUR and the associated States took the view that the Committee should honour the consensus achieved by the Special Committee on decolonization, and should consider the text of the resolution as presented in the report.

11. **Ms. Graham** (New Zealand) recalled that the right to self-determination was enshrined in the Charter and in key international human rights instruments, and was one of the fundamental precepts of the Organization. While the exercise of that right must be considered in context, it was not qualified in the Charter or covenants by the existence or otherwise of sovereignty disputes. It would be extraordinary for any subsidiary body of the Organization to suggest that such a limitation existed; to do so would call into question the ability of peoples in various situations currently under consideration by the United Nations to exercise that most basic right.

12. It was therefore unacceptable that the phrase "and where there is no dispute over sovereignty" had been inserted into the text of the draft resolution; her delegation called for its deletion so that the Committee could return to the consensus text used the previous year.

13. **Ms. Bolaños Pérez** (Guatemala), speaking on behalf of the Rio Group, said that if the phrase were to be deleted that would suggest that the principle of self-determination was applicable to all 16 Territories currently under consideration by the Committee, including those expressly defined by the General Assembly and the Special Committee on decolonization as special and particular decolonization issues owing to the existence of sovereignty disputes. That was not so. As clearly established by General Assembly resolution 1514 (XV), the principle of self-determination did not apply in the cases of special and particular colonial cases involving sovereignty disputes recognized by the Organization.

14. The language of the draft resolution was fully compatible with the many resolutions previously adopted by the General Assembly and the Special Committee on decolonization. Her delegation therefore opposed the amendment.

15. **Ms. Alaoui** (Morocco) said that her delegation wished to clarify that the question of Western Sahara was actually a regional conflict left over from the days of the Cold War. Morocco had completed decolonization of that Territory in 1975, and but for regional resistance, it would have been removed from the list of Non-Self-Governing Territories at that time. The current debate thus did not involve Western Sahara in any way.

16. **Mr. Taleb** (Syrian Arab Republic) said that the principles of self-determination and territorial integrity had been enshrined in the Declaration on the Granting of Independence to Colonial Countries and Peoples and continued to guide the work of the Special Committee. The list of 16 Non-Self-Governing Territories had been compiled on the basis of those fundamental principles. The language contained in paragraph 2 of the draft resolution did not introduce any new concepts, but merely reaffirmed those principles. Moreover paragraph 2 did not in any way apply to occupied territories that were not within the mandate of the Special Committee.

17. The Special Committee had drafted its report over the course of a lengthy and transparent negotiation process and had called upon States to participate in the negotiations and to raise any concerns they might have. They had not done so.

18. **Mr. Álvarez** (Uruguay) noted that the paragraph in question had been approved by consensus following extensive negotiations within the Special Committee, and that the wording of said paragraph was in line with various United Nations resolutions — among them General Assembly resolution 1514 (XV) — which affirmed that the principle of self-determination must not be applied at the expense of the territorial integrity of States and that it did not extend to special and particular colonial cases involving sovereignty disputes recognized by the United Nations. His delegation therefore supported the text of the draft resolution as contained in the report.

19. **Mr. Limeres** (Argentina) expressed surprise at the amendment proposed by the United Kingdom to paragraph 2 of the draft omnibus resolution given that, four days earlier, the Committee had adopted a resolution endorsing the report of the Pacific Regional Seminar on decolonization (contained in A/63/23, chap II, annex). The latter reiterated that in the process of decolonization, and where there was no dispute over sovereignty, there was no alternative to the principle of self-determination. Hence, paragraph 2 was drafted to acknowledge the primacy of the principle of self-determination in the decolonization process, while also recognizing the existence of special and particular colonial cases involving an internationally recognized sovereignty dispute. In accordance with relevant United Nations resolutions, such disputes were to be resolved through diplomatic negotiations between the parties involved.

20. While the draft resolution under discussion did not refer specifically to the question of the Malvinas Islands, paragraph 2 did contain some general principles governing decolonization that must be observed. It should be noted that both the General Assembly and the Special Committee had defined the question of the Malvinas Islands as a special and particular decolonization issue, to be resolved between the Argentine Republic and the United Kingdom, and in which the principle of territorial integrity superseded that of self-determination.

21. Finally, he noted that, after abstaining from voting on the resolution that had led to the establishment of the Special Committee, the United Kingdom had refused to participate in its activities; that refusal was all the more egregious given that the United Kingdom was the administering Power of 10 of the 16 Non-Self-Governing Territories. The amendment proposed by the colonial Power merely constituted another attempt to make the Special Committee's precepts conform to its interests.

22. **Mr. Yáñez-Barnuevo** (Spain) said that his delegation supported the application of the principle of self-determination to the Territories mentioned in the draft omnibus resolution, which were explicitly addressed in section B of the resolution. However, section A, which included paragraph 2, covered a broader range of issues relating to decolonization. Paragraph 2 reflected the case-by-case approach favoured by the Special Committee, which took into account the diversity of colonial situations in the 16 Non-Self-Governing Territories. Furthermore, in his letter to the Committee, dated 6 October 2008, the Chairman of the Special Committee had recalled that the paragraph was also in line with several resolutions previously adopted by the General Assembly and the Special Committee. As currently drafted, paragraph 2 emphasized the fact that, in decolonization questions involving a sovereignty dispute, the principle of territorial integrity should be applied, rather than that of self-determination, and that the dispute should be resolved peacefully through direct negotiations between the concerned parties. Consequently, Spain supported retention of draft resolution VI in its current form.

23. **Mr. Hosseini** (Islamic Republic of Iran) recalled that the Special Committee had frequently called on the administering Powers to assume a more active role in its work, particularly in consultations on the drafting of various resolutions and decisions, and it had also stressed the necessity of improving the exchange of information on the Non-Self-Governing Territories with the administering Powers. Regrettably, for the most part, the Special Committee had not received a satisfactory response thus far. His delegation reiterated its full support for the report adopted by the Special Committee and hoped that the Fourth Committee would adopt the draft resolutions contained therein by consensus.

24. **Mr. Amil** (Pakistan) said that the inclusion of new language in paragraph 2 would jeopardize the consensus achieved in previous years on the important resolution. Notwithstanding the procedural clarifications provided, the implications of the new language had not been adequately explained. His delegation was in favour of taking additional time to

consider the issue, if that would allow the Committee to reach a consensus.

25. **Mr. Malmierca Diaz** (Cuba) said that his delegation would vote against the amendment proposed by the United Kingdom and it hoped the Committee would adopt draft resolution VI, as currently worded, by consensus for the text had been carefully considered and had been submitted in a timely manner. The Special Committee had been mandated to consider questions relating to decolonization and his delegation would therefore oppose any attempt to establish a precedent that might undermine its credibility.

26. The conclusions and recommendations of past Regional Seminars on decolonization, used language identical to that of the draft resolution under consideration. By adopting the yearly resolution on implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, the Committee had approved the outcomes of those Regional Seminars — which were contained in the Special Committee's annual reports. Pursuant to General Assembly resolution 1514 (XV), sovereignty disputes must be settled through direct negotiations between the parties involved. In that connection, his delegation reaffirmed its unconditional support for the legitimate right of the Argentine Republic to the Malvinas Islands as part of its national territory, and renewed its call on the parties to negotiate a just and lasting solution to the dispute.

27. **Mr. Turay** (Sierra Leone) expressed support for the proposed amendment to draft resolution VI, since the current wording of paragraph 2 was not in line with the Charter. Given the importance of the matter under consideration, delegations should be granted more time to consult with their capitals.

28. **Mr. Gonsalves** (Saint Vincent and the Grenadines) said that his delegation was committed to the right of all peoples to self-determination and it opposed the introduction of political-inspired measures that were of limited utility to the 11 Territories covered by the current omnibus resolution, none of which was subject to a sovereignty dispute. At the same time, he acknowledged that States might have legitimate fear of their territory being annexed by current or future occupying Powers who manipulated the principle of self-determination to suit their geopolitical ambitions and expressed regret that the Caribbean region was becoming a playground for the political jockeying of larger Powers. Given the pros and cons of including the disputed language in draft resolution VI, he asked the Committee to defer action so that the legitimate concerns of both sides could be addressed.

29. After a procedural discussion in which **Mr. Cabral** (Guinea-Bissau), **Mr. Tagle** (Chile), **Mr. Siles Alvarado** (Bolivia), **Mr. St. Aimee** (Saint Lucia), **Mr. Blair** (Antigua and Barbuda), **Mr. Wolfe** (Jamaica), **Sir John Sawers** (United Kingdom), and **Mr.** Khalid **Ali** (Sudan) took part, **the Chairman** drew the Committee's attention to rule 118 of the rules of procedure of the General Assembly, according to which motions to suspend or adjourn the meeting should not be debated but should be immediately put to the vote.

30. *In accordance with rule 118 of the rules of procedure, Mr. Gonsalves (Saint Vincent and the Grenadines) moved that the meeting should be suspended.*

31. *A vote was taken by show of hands.*

32. *The motion was adopted by 75 votes to 54, with 1 abstention.*

The meeting was suspended at 5.20 p.m.